

EXHIBIT J

time you called her, any recollection of talking to anybody at Applera about Ms. Kelly?

A. Don't remember.

Q. Okay. All right. So the conversation that you had with her, you initiated that call, 11:55 right?

A. She left me a voicemail, and I call back.

Q. Okay. Was it just you and she participating in this conversation?

A. Yes. 11:56

Q. How long was the conversation?

A. I don't remember.

Q. Okay. Can you give me an estimate? Less than five minutes?

A. Between five and ten minutes. 11:56

Q. Five to ten minutes.

So tell me everything that you recall saying during the conversation.

A. I call her back, probably asking how she's doing and I got her message, and try to get -- you know, "What is the status of your injury?" 11:56

And then she goes and tell me that -- she told me that she has been released by the doctor, but she still could not walk or drive on her own.

So I told her, "Well, I'll contact the 11:57

BIT 2 EXH

safety people and will have them get back to you."

Q. Do you specifically remember her saying those exact words, she could not walk --

A. Yes.

Q. -- or drive?

11:57

A. Yes.

MR. PAETKAU: You have to wait again. I know we're kind of in conversation mode, but so the court reporter can make a clean record.

MS. McFADDEN: Okay.

11:57

BY MS. McFADDEN:

Q. So you're certain she said she could not walk at all?

A. Yes.

Q. Okay. What else did Megan tell you?

11:57

A. That her doctor released her.

Q. What did she tell you about the doctor's release?

A. Say that again.

Q. Well, what is it she told you in terms of the doctor's release?

11:57

A. That's it. She told me she's been released by the doctor.

Q. She didn't tell you what the restrictions were that the doctor gave her?

11:58

EXHIBIT K

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 ---000---

5 MEGAN KELLY,

6 Plaintiff,

7 vs.

No. C-07-3002 MML

8 APPLERA CORPORATION,

(EMC)

9 Defendants.

COPY

10 DEPOSITION OF JONATHAN LAOSIRI

11
12
13
14 Taken before CAROL SCHILP

15
16
17
18 CSR No. 9648

19
20
21 April 8, 2008



One Kaiser Plaza, Suite 505
Oakland, California 94612
510/451-1580 Fax 510/451-3797

Certified Shorthand Reporters

you're just not remembering?

A. Could be.

Q. Anything else you remember Ms. Kelly telling you during this telephone call?

A. No.

11:59

Q. Did you ask her for any additional information?

A. No.

Q. Okay. So you've told me now everything you remember Ms. Kelly saying during this phone call?

11:59

A. I think so.

Q. Okay. And anything else you remember telling Ms. Kelly during this phone call other than what you've already told me about?

11:59

A. No.

Q. No. Okay. So I've got the complete conversation, to your recollection?

A. I think, from what I remember.

Q. Okay. So what's the first thing you did after having this telephone call with Ms. Kelly?

11:59

A. I emailed -- I think it's Merte -- about the situation, what I learned from talking to Megan. And I also -- I think that I also had told her my concerns of having, you know, someone in

12:00

that condition come in and work, because it becomes
a safety issue because we are dealing with
flammable materials.

Q. Okay. So when you say you told Merte, did
you -- you said you first -- when I asked you
what's the first thing you did, you said you
emailed Merte. 12:01

A. Yes.

Q. Then you gave some testimony about you
told Merte. 12:01

A. In the email.

Q. Okay. So when you say "told," you mean
you told her in the email?

A. Correct.

Q. Did you send this email to Merte the same
day you had this conversation with Ms. Kelly? 12:01

A. I don't remember.

Q. Was it within a day or two of the
conversation with Ms. Kelly?

A. Probably, because it's pretty important. 12:01

MS. McFADDEN: Okay. We'll mark this next
in order. This will be Exhibit 4.

The court reporter will mark this and give
you a copy to look at.

(Plaintiff's Exhibit No. 4 marked for

identification.)

MS. McFADDEN: Back on the record.

So for the record, we're marking as
Exhibit 4 an email. It is Bates stamped D00078.
It's dated 1/24/2006.

12:04

BY MS. McFADDEN:

Q. Have you had a chance to read this over?

A. Yes.

Q. Is this the email you were referring to
that you sent over to Merte Miles, the first thing
you did after the telephone call with Ms. Kelly?

12:04

A. Yes.

Q. Okay. So -- and that's got the date
1/24/06, 10:16 a.m., right?

A. I see that.

12:05

Q. Okay. And no reason to believe that isn't
accurate, right?

A. Yes.

Q. All right. So your call with Ms. Kelly
was within a day or two of 1/24/2006 then, right?

12:05

A. Probably, yes.

Q. Okay. All right. So just looking at
this, I want to just look at who this email is sent
to first.

Who is John Butler?

12:05

Jonathan B Laosiri/FOS/PEC

01/24/2006 10:16 AM

To North America Occupational Health
Services/NE/FOS/PEC@PEC
cc John H Butler/FOS/PEC@PEC, Merete K
Miles/FOS/PEC@PEC
bcc
Subject Megan Kelly

Colista/Merete

I received a call from Megan Kelly today indicating that she is ready to return to work "Partially". She has been on a disability for over two years now. What is the right way to transition Megan back into the work place? I spoke to her this morning and per the Dr's request, she was released to work only 12 hrs/wk (3 days/wk). She spoke to someone in HR Direct and I am waiting to hear from them.

EXHIBIT 5 EXHIBIT 6

EXHIBIT 1

D00078



EXHIBIT L

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 ---000---

5 MEGAN KELLY,

6 Plaintiff,

7 vs.

No. C-07-3002 MML

8 APPLERA CORPORATION,

(EMC)

9 Defendants.

COPY

10

11 DEPOSITION OF JONATHAN LAOSIRI
12
13
14
15
16
17
18
19 Taken before CAROL SCHILP
20 CSR No. 9648
21 April 8, 2008
22
23
24
25



One Kaiser Plaza, Suite 505
Oakland, California 94612
510/451-1580 Fax 510/451-3797

Certified Shorthand Reporters

in the email unless it was accurate, correct?

A. Correct.

Q. So then it says -- well, let me ask you this: What is HR Direct?

A. Basically, they provide assistance to employee with family issues or adoptions, any, I guess, crisis, like you were on drugs, you can't -- you know, those kind of things.

Q. Okay. And do you know, during the January 2006 time frame, who was in HR Direct at that time? Do you know?

A. No. Because it's a service that, I think, the company bought.

Q. So you don't know the names of specific individuals that would have been in HR Direct during that time frame?

A. No.

Q. All right. If you look at that last line again, "She spoke to someone in HR Direct, and I am waiting to hear from them," is -- so does that mean you were waiting to hear back from HR Direct? Is that what that means?

A. Yes. Either from HR Direct or from Merte, because they were probably contacting her.

Q. Well, I don't want you to guess about

12:10

12:10

12:10

12:10

12:11

1 anything.

2 But when it says "I am waiting to hear
3 from them," who were you waiting to hear from?

4 A. HR Direct.

5 Q. What is it that you were waiting to hear
6 from HR Direct? 12:11

7 A. Some directions of where we're going to
8 put -- how we're going to proceed.

9 Q. Okay. All right. So now that we've
10 looked at this email, it doesn't -- does that jog
11 your memory at all about any additional details
12 about your conversation with Ms. Kelly that you
13 haven't told me about already? 12:11

14 A. No.

15 Q. Okay. All right. So you said the very
16 first thing you did was send this email to Calista
17 and Merte, correct? 12:11

18 A. Correct.

19 Q. Okay. So I want to know, what's the very
20 next thing you recall happening in terms of the
21 situation of Megan Kelly asking to get back to work
22 at Applera? What's the next thing that happened?
23 12:11

24 A. I'm waiting for the direction from Merte
Miles.

25 Q. So is the next thing that happened some 12:12

1 communication from Merte Miles?

2 A. Yes.

3 Q. You heard from Merte Miles before you
4 heard from HR Direct?

5 A. I'm waiting to hear back from them. I'm 12:12
6 waiting to hear back from Merte Miles to guide me
7 of how to handle the situation, on how to -- how to
8 assimilate her into the -- back into the workplace.

9 Q. Well, I understand you're waiting. But I
10 want to know what happened next. 12:12

11 Who's the next person you heard from at
12 Applera?

13 A. I don't remember.

14 Q. Okay. Who is Stefan Lazar? Stefan Lazar,
15 do you know who that is? 12:13

16 A. The name rings a bell, but I don't know
17 exactly. I think he's handle all the disability
18 claims, I think.

19 Q. Is he part of HR at Applera, to your
20 understanding? 12:13

21 A. I don't know.

22 Q. Or he was during that time frame?

23 A. I don't know.

24 Q. Do you recall having any conversations
25 with Mr. Lazar about Ms. Kelly's request to return 12:13

106

1 Q. Okay.

2 A. -- on the phone.

3 Q. All right.

4 MR. PAETKAU: Maureen?

5 MS. McFADDEN: Yeah.

12:19

6 MR. PAETKAU: Is now a convenient time for
7 a lunch break, or do you want to keep going?

8 MS. McFADDEN: Yeah, it's probably as good
9 a time as any. Let's go off the record.

10 (Recess was taken from 12:19 to 1:02.)

12:19

11 BY MS. McFADDEN:

12 Q. All right. I think we're going to mark --
13 well, let me just ask you first, so what's the
14 next -- you sent an email to Merte Miles, and we
15 marked that as an exhibit to the record.

13:02

16 When did you hear back from Ms. Miles?

17 A. I don't remember.

18 Q. Okay. When you heard back, was it via a
19 telephone call, in person, an email?

20 A. I don't remember.

13:02

21 Q. Okay. Do you know how long, between the
22 time you got the email -- you sent the email to
23 her, it took for her to respond?

24 A. I don't remember.

25 MS. McFADDEN: Okay. All right. Well,

13:02

1 let's mark next in order -- I think we are on
2 Exhibit 6.

3 I'll have the court reporter mark this and
4 hand you a copy.

5 (Plaintiff's Exhibit No. 6 marked for
6 identification.)

7 BY MS. McFADDEN:

8 Q. Why don't you read that whole thing over
9 and then just look up when you're done, please.

10 So for the record, we're marking as 13:03
11 Exhibit 6 a two-page document bearing Bates stamp
12 number D00076 to D00077, and it's a string of
13 emails dated 1/24/06.

14 Mr. Laosiri, have you had a chance to look
15 at what we marked as Exhibit 6? 13:05

16 A. Yes.

17 Q. And have you see all the email strings
18 that are part of Exhibit 6 before?

19 A. I can't say that I can remember. But I
20 don't remember. 13:05

21 Q. Okay. All right. Well, let's first focus
22 on the second page of the exhibit. Now, the very
23 bottom exhibit, we actually marked that as a
24 separate exhibit. That's what we marked as Exhibit
25 4. So we're not going to go over that again.

13:06

108

Let's look at the second email at the top of the second page.

Do you recall receiving this email on or about January 24th, 2006, from Ms. Miles?

A. I don't remember it.

13:06

Q. Okay. Well, you may not remember that date and time, but do you remember getting an email from Ms. Miles in response to your email to her that morning?

A. I don't remember.

13:06

Q. So even as you look at it and read it over, you still don't remember it?

A. No.

Q. Okay. Well, it's -- it indicates that it's from Merte Miles, and it's to you.

13:06

And that's your work email, right?

A. Yes.

Q. Any reason to believe you didn't receive this?

A. No.

13:06

Q. Okay. Well, let's take a look at this. And let's look at the times first.

The email -- the time on your email below, which we already discussed as a separate exhibit, is 10:16 a.m., right, on the 24th?

13:06

109

A. Yes.

Q. And then the email from Merte, responding,
is also 1/24/06, 10:56.

A. Yes, I see that.

Q. So within the hour.

13:07

Do you remember her responding to your
email within the hour?

A. Again, I don't remember seeing this email,
but -- I see this email in front of me, but I don't
remember reading it.

13:07

Q. Okay. All right. Well, let's look at the
second email, the one on the top of the page --
actually, let me ask you a question first. Let's
look at who this is addressed to.

Who is Sandra Miyahara, M-i-y-a-h-a-r-a?

13:07

A. She's also working side by side with Merte
Miles. And I -- I don't know exactly what her job
function is, but she's in the same -- she's a
backup, basically.

Q. Health and safety person?

13:07

A. Yeah.

Q. Okay. So does she work under Merte Miles,
to your understanding?

A. I don't know.

Q. Okay. So let's look at Ms. Miles'

13:07

110

1 response. She says "Hi Calista. I would like to
2 discuss this one with Dr. Wharton. We should
3 consider doing a fit-for-duty screening before she
4 returns. Last time she ended up doing too much and
5 was reinjured while at work, although her injury 13:08
6 originally was nonwork-related. She needs to be
7 able to walk. Although she can take breaks, the
8 work environment is time dependent (certain things
9 have to be done at certain times, f.ex, when an
10 instrument is done with a run, it must be 13:08
11 unloaded)."

12 Did I read that accurately?

13 A. Yes.

14 Q. All right. Now, this was being sent to
15 you and cc'd to these others. 13:08

16 Do you remember, now that you've had a
17 chance to look this over, doing anything in
18 response to receiving this email from Merte Miles?

19 A. I don't remember.

20 Q. Okay. Do you remember her saying she 13:09
21 wanted to discuss Megan Kelly's situation with
22 Dr. Wharton?

23 A. I don't remember.

24 Q. Okay. Do you remember her referencing the
25 possibility of a fitness-for-duty exam? 13:09

111

A. I don't remember.

Q. Okay. And you have no idea of whether --
whether or what you did to respond to this email?

A. Correct.

Q. Okay. And other than this email from
Merte Miles to you, do you remember any other
communications you had with Ms. Miles responding to
your email to her?

A. I don't remember.

Q. Okay. So you don't remember anything at
all that Ms. Miles said to you specifically about
Megan Kelly's request to return to work?

A. No.

Q. Okay. Well, let's look at the next page,
page 1 of this exhibit.

And on the top email from Donald
Wharton -- you're actually not on that email. And
you don't have any recollection of seeing that top
email from Dr. Wharton before?

A. No.

Q. Okay. Well, let's look at it.
Dr. Wharton says -- and again, this is also
1/24/06, the same day, right -- the same day as the
first two e-mails?

A. Correct.

112

1 Q. Dr. Wharton says "I agree that we need to
2 have a fitness-for-duty assessment. I need some
3 information about her condition, and she will need
4 to sign a release of medical records form so her
5 PMD will respond to me."

13:10

6 Do you have any recollection of
7 Dr. Wharton advising that Megan should have a
8 fitness-for-duty exam?

9 A. I don't know.

10 Q. You don't have any recollection of that at 13:11
11 all?

12 A. No.

13 Q. Did she -- did Applera ask Ms. Kelly to
14 have a fitness-for-duty exam?

15 A. I don't know.

13:11

16 Q. Do you know any reasons why they wouldn't
17 ask her to have a fitness-for-duty exam in response
18 to Dr. Wharton's comment here?

19 A. I don't know.

20 Q. Is there anybody but you who would have 13:11
21 more information as to the fitness-for-duty exam
22 and why Ms. Kelly did or did not have one done?

23 MR. PAETKAU: Objection. Argumentative as
24 phrased; lacks foundation; calls for speculation.
25

THE WITNESS: I don't know.

13:11

113

1 BY MS. McFADDEN:

2 Q. So you don't know anybody but yourself
3 that would know more information about whether or
4 not the company offered Ms. Kelly a
5 fitness-for-duty exam?

13:11

6 MR. PAETKAU: Objection. That misstates
7 prior testimony; it's argumentative; lacks
8 foundation; calls for speculation.

9 THE WITNESS: I don't know.

10 BY MS. McFADDEN:

13:11

11 Q. So why -- you have no idea?

12 A. Correct.

13 Q. Okay. Do you have any recollection of
14 having any discussions with anybody at Applera
15 about a fitness-for-duty exam and Megan Kelly?

13:12

16 A. No.

17 Q. Okay. Do you remember having any
18 conversations with Dr. Wharton about Ms. Kelly?

19 A. No.

20 Q. Well, when you got Calista -- when you got
21 Merte Miles' response to your email, that we're
22 looking at, the second page here, did that give you
23 the guidance you needed in terms of what to do with
24 the Megan Kelly situation?

13:12

25 MR. PAETKAU: Objection. Lacks

13:12

foundation.

THE WITNESS: Yes.

BY MS. McFADDEN:

Q. So what guidance did you think you were getting from Merte Miles in that email, the second page of Exhibit 6? 13:13

A. That we should be doing the fitness test, the fit-for-duty screen, before she return.

Q. So did that answer all the questions you had about what needed to be done? 13:

A. Yes.

Q. So did you respond to this email?

A. I don't remember.

Q. Did you do anything to follow up on the email suggesting a fitness-for-duty exam? 13:14

MR. PAETKAU: Objection. Asked and answered three times now.

THE WITNESS: I don't remember.

MS. McFADDEN: Let's mark next in order -- this will be Exhibit 7. 13:14

The court reporter will mark that and give you a copy.

(Plaintiff's Exhibit No. 7 marked for identification.)

MS. McFADDEN: For the record, we're 13:14



"Donald Whorton, MD"
<dwhorton@workcare.com>
01/24/2006 12:51 PM

"Colista A Isadore"
To <Colista.Isadore@appliedbiosystems.com>, "Merete Miles
(E-mail)" <milesmk@appliedbiosystems.com>
cc
bcc
Subject RE: Megan Kelly

I agree that we need to have a fitness for duty assessment. I need some information about her condition and she will need to sign a release of medical records form so her PMD will respond to me.

Don

Dr. Donald Whorton
Vice President and Epidemiologist
WorkCare
1320 Harbor Bay Parkway, Suite 115
Alameda, CA 94502
Phone: (510) 748-6900 ext 202
Fax: (510) 748-6915

Confidentiality Notice: Confidential Health Information May Be Enclosed
Health care information is personal and sensitive information related to a person's health care. It is being e-mailed to you after appropriate authorization from the patient or under circumstances that don't require patient authorization. You, the recipient, are obligated to maintain it in a safe, secure and confidential manner. Re-disclosure without additional patient consent or as permitted by law is prohibited. Unauthorized re-disclosure or failure to maintain confidentiality could subject you to penalties described in federal and state law." **IMPORTANT WARNING:** This message is intended for the use of the person or entity to which it is addressed and may contain information that is privileged and confidential, the disclosure of which is governed by applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this information is STRICTLY PROHIBITED. If you have received this message by error, please notify us immediately and destroy the related message.

-----Original Message-----

From: Colista A Isadore [mailto:Colista.Isadore@appliedbiosystems.com]
Sent: Tuesday, January 24, 2006 11:38 AM
To: Donald Whorton, MD
Subject: Fw: Megan Kelly

Don, FYI - from Merete. Colista

----- Forwarded by Colista A Isadore/NE/FOS/PEC on 01/24/2006 11:37 AM -----

Merete K
Miles/FOS/PEC
01/24/2006 10:56 AM
To Jonathan B Laosiri/FOS/PEC@PEC
John H Butler/FOS/PEC@PEC, North America Occupational Health Services/NE/FOS/PEC@PEC,
cc Sandra G Miyahara/FOS/PEC@PEC
Subject Re: Megan Kelly [Link](#)

D00076



Merete K Miles/FOS/PEC
01/24/2006 10:56 AM

To Jonathan B Laosiri/FOS/PEC@PEC
John H Butler/FOS/PEC@PEC, North America Occupational
cc Health Services/NE/FOS/PEC@PEC, Sandra G
Miyahara/FOS/PEC@PEC
bcc
Subject Re: Megan Kelly

Hi Colista,

I would like to discuss this one with Dr. Whorton. We should consider doing a fit for duty screening before she returns. Last time she ended up doing too much and was reinjured while at work although her injury originally was non work related. She needs to be able to walk Although she can take breaks the work environment is time dependent (certain things have to be done at certain times, f.ex when an instrument is done with a run it must be unloaded)

Regards,

Merete K. Miles
Environmental Health & Safety
Applied Biosystems
Phone (925) 230-5507
Fax (925) 230-3098
Jonathan B Laosiri/FOS/PEC

Jonathan B
Laosiri/FOS/PEC
01/24/2006 10:16 AM

To North America Occupational Health Services/NE/FOS/PEC@PEC
cc John H Butler/FOS/PEC@PEC, Merete K Miles/FOS/PEC@PEC
Subject Megan Kelly

Colista/Merete

I received a call from Megan Kelly today indicating that she is ready to return to work "Partially". She has been on a disability for over two years now. What is the right way to transition Megan back into the work place? I spoke to her this morning and per the Dr's request, she was released to work only 12 hrs/wk (3 days/wk). She spoke to someone in HR Direct and I am waiting to hear from them.

D00077

EXHIBIT M

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 ---000---

5 MEGAN KELLY,

6 Plaintiff,

7 vs.

No. C-07-3002 MMC

8 APPLERA CORPORATION and
9 DOES 1-20, inclusive,

10 Defendants.
11 _____
12

COPY

13 DEPOSITION OF GEORGE STEFAN LAZAR

14 VOLUME I

15 (Pages 1 to 249)

16
17
18 Taken before ERIN F. FERREYRA

19 CSR No. 12199

20 February 13, 2008



21
22
23
24 One Kaiser Plaza, Suite 505
25 Oakland, California 94612
 510/451-1580 Fax 510/451-3797

Certified Shorthand Reporters

1 Q. My apologies. Please continue on. 06:15:03

2 A. Yes. 06:15:05

3 Q. So please continue on. I want to know 06:15:06
4 everything that you did in response to getting the 06:15:08
5 ticket in January 2006. 06:15:12

6 A. The conversation -- I had the conversation 06:15:24
7 with Jonathan Laosiri. I don't remember at that 06:15:28
8 point as to whether he was aware of the 06:15:36
9 restrictions or what they would be. However, if 06:15:38
10 he did not know, I would have informed him. And 06:15:43
11 that he would need to review whether he could make 06:15:49
12 that kind of accommodation or not. 06:15:52

13 To the best of my recollection, he asked 06:15:59
14 for my guidance because of the minimal number of 06:16:13
15 hours she could work, and I told him that the 06:16:21
16 general guideline would be a minimum of 20 hours 06:16:32
17 just as a starting point in that most employees at 06:16:45
18 20 hours or more, we should be able to accommodate 06:16:52
19 with exceptions. 06:17:00

20 And with employees who worked less than 20 06:17:04
21 hours, it was more difficult to do, but that he 06:17:07
22 would have to make the judgment based upon what 06:17:17
23 work he had and what work she could do. He had to 06:17:20
24 make the best business judgment. We also had the 06:17:26
25 discussion of our concern about her safety and the 06:17:30

1 safety of other employees in the area. 06:17:37

2 Because of the restrictions, there was a 06:17:50

3 question about her stability. And as we know now 06:17:54

4 from later documents, she still needed surgery, 06:18:03

5 which she had not had. And there was a concern 06:18:06

6 both for her safety and of safety of the 06:18:10

7 individuals around, time issue aside. 06:18:15

8 Q. So have you now told me everything that 06:18:26

9 you recall doing in response to getting the 06:18:28

10 ticket? 06:18:30

11 A. Yes. 06:18:30

12 Q. How many conversations total did you have 06:18:32

13 with Jonathan Laosiri in January 2006 with respect 06:18:33

14 to the issue of getting Ms. Kelly back to work? 06:18:38

15 A. At least two, but it could have been more. 06:18:44

16 Q. This morning you gave some testimony about 06:18:50

17 a conversation with Mr. Laosiri. Was that the 06:18:52

18 first conversation you had with him? 06:18:55

19 A. Yes, I believe that's what I said this 06:18:57

20 morning. 06:19:01

21 Q. And when did you have another conversation 06:19:03

22 with him? 06:19:05

23 A. The later conversation would have been 06:19:05

24 when he -- when a decision was made that he could 06:19:07

25 not make the accommodation. He could not make -- 06:19:12

EXHIBIT N

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 ---000---

5 MEGAN KELLY,

6 Plaintiff,

7 vs.

No. C-07-3002 MMC

8 APPLERA CORPORATION and
9 DOES 1-20, inclusive,

10 Defendants.
11 _____/

COPY

13 DEPOSITION OF GEORGE STEFAN LAZAR

14 VOLUME I

15 (Pages 1 to 249)

18 Taken before ERIN F. FERREYRA

19 CSR No. 12199

20 February 13, 2008



24 One Kaiser Plaza, Suite 505
25 Oakland, California 94612
 510/451-1580 Fax 510/451-3797

25 Certified Shorthand Reporters

1 ticket? 06:34:45

2 A. Correct. 06:34:45

3 Q. So just moving forward, we've talked about 06:34:51
4 the first conversation you had with Jonathan 06:34:53
5 Laosiri after getting the ticket. What did you do 06:34:55
6 next? 06:34:58

7 A. The only thing that I can specifically 06:35:00
8 remember from that point forward is the 06:35:02
9 conversation that I had with Jonathan in which he 06:35:07
10 believed we could not make that specific 06:35:13
11 accommodation of having her return to work. 06:35:17

12 Q. And do you know how much time passed 06:35:35
13 between your first and second conversations with 06:35:36
14 Mr. Laosiri? 06:35:38

15 A. No, but I can say that it would have been 06:35:39
16 within a short -- it would have been within a few 06:35:41
17 days, within a short period of time, because I 06:35:45
18 know -- because I know of a subsequent action 06:35:48
19 which couldn't have happened if I hadn't had the 06:35:52
20 conversation with him. 06:35:54

21 Q. So this telephone conversation, was it 06:35:59
22 just you and he on the call? 06:36:01

23 A. Yes, to the best of my recollection, yes. 06:36:02

24 Q. And who initiated the call? 06:36:05

25 A. I have no -- I don't remember. 06:36:08

210

1 Q. How long was the phone call? 06:36:11

2 A. I have no idea. I do not remember. 06:36:12

3 Q. More or less than ten minutes, can you 06:36:15
say? 06:36:17

4 A. I can't answer that. I do not know. 06:36:18

5 Q. Well, tell me as specifically as you can 06:36:21
exactly what Mr. Laosiri told you in the second 06:36:23
call. 06:36:26

6 A. I can only tell you in generalities what I 06:36:29
remember, and that was that based upon three 06:36:34
factors, the safety factor, the physical 06:36:40
restrictions and the time factor, the limited 06:36:47
hours, that he could not accommodate -- he could 06:36:51
not accommodate that. 06:36:59

7 Q. And did you ask him for the reason he 06:37:10
reached that conclusion? 06:37:11

8 A. At this point in time, I don't remember. 06:37:16
I would make an assumption that I did, but to 06:37:19
specifically state to you, I can't, because I 06:37:23
don't remember. 06:37:29

9 Q. Do you have any recollection at all as to 06:37:30
the basis for those three factors that he 06:37:31
determined based upon those he couldn't 06:37:40
accommodate her? 06:37:42

10 MR. PAETKAU: Objection. Asked and 06:37:47

EXHIBIT O

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 ---000---

5 MEGAN KELLY,

6 Plaintiff,

7 vs.

No. C-07-3002 MMC

8 APPLERA CORPORATION and
9 DOES 1-20, inclusive,

10 Defendants.
11 _____
12

COPY

13 DEPOSITION OF GEORGE STEFAN LAZAR

14 VOLUME I

15 (Pages 1 to 249)

16
17
18 Taken before ERIN F. FERREYRA

19 CSR No. 12199

20 February 13, 2008



21
22
23 One Kaiser Plaza, Suite 505
24 Oakland, California 94612
25 510/451-1580 Fax 510/451-3797

Certified Shorthand Reporters

1 BY MS. McFADDEN:

06:45:23

2 Q. Do you have any information at all about 06:45:32
 3 what Mr. Laosiri did to reach his conclusion that 06:45:36
 4 he couldn't accommodate Ms. Kelly? 06:45:44

5 A. No, I do not. 06:45:46

6 Q. Did you ever make any effort to find out 06:45:47
 7 what he did to reach his conclusion that he 06:45:50
 8 couldn't accommodate her? 06:45:54

9 A. Not to my recollection. 06:45:56

10 Q. To your knowledge, did anybody at Applera 06:46:04
 11 make any effort to find out what Jonathan Laosiri 06:46:08
 12 did in reaching his conclusion that he couldn't 06:46:11
 13 accommodate Ms. Kelly? 06:46:14

14 A. I'm not privy to any such information. 06:46:15

15 Q. So have you told me about all the factors 06:46:50
 16 that you're aware of that went into the 06:46:52
 17 determination that Ms. Kelly could not be 06:46:56
 18 accommodated as to the January 2006 work 06:47:01
 19 restriction? 06:47:04

20 A. I've stated all of the information that I 06:47:06
 21 can remember that you asked about. 06:47:09

22 MS. McFADDEN: And that's a different 06:47:15
 23 question, so I need to have my question answered. 06:47:15
 24 Let's reread it one more time. 06:47:18

25 (Record read.) 06:47:20

EXHIBIT P

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 ---000---

5 MEGAN KELLY,

6 Plaintiff,

7 vs.

COPY
No. C-07-3002 MMC

8 APPLERA CORPORATION and
9 DOES 1-20, inclusive,

10 Defendants.
11 _____ /
12

13 DEPOSITION OF GEORGE STEFAN LAZAR

14 VOLUME I

15 (Pages 1 to 249)

16
17 Taken before ERIN F. FERREYRA

18 CSR No. 12199

19 February 13, 2008



20
21 One Kaiser Plaza, Suite 505
22 Oakland, California 94612
23 510/451-1580 Fax 510/451-3797

24
25 Certified Shorthand Reporters

1 we're holding, the answer is yes. 07:02:58

2 Q. Do you have a recollection as to what it 07:03:00
 3 is that you and Jamil discussed? 07:03:02

4 A. No recollection at all. 07:03:04

5 Q. Do you know whether you did have a 07:03:07
 6 discussion with him other than that this paper 07:03:08
 7 says so? 07:03:10

8 A. If it says we did, we did. 07:03:11

9 Q. So the line we were just talking about, 07:03:15
 10 "Stefan, per our discussion, please refer to this 07:03:17
 11 inquiry, thanks, JS," did Jamil enter that line 07:03:19
 12 into the system on this ticket? 07:03:24

13 A. Yes. 07:03:26

14 Q. And the one that we read above that that 07:03:26
 15 says LC, LC is a person who created that line and 07:03:28
 16 entered into the system? 07:03:33

17 A. Correct. 07:03:34

18 Q. So let's look at the next line, and it 07:03:36
 19 says, "Notified employee that we could not meet 07:03:43
 20 the necessary accommodations," and it's got your 07:03:46
 21 name, Stefan, 1-30-06? 07:03:48

22 A. Correct. 07:03:51

23 Q. And that means you entered that line? 07:03:52

24 A. Yes. 07:03:54

25 Q. And who notified the employee that we 07:03:54

1 could not meet the necessary accommodations? 07:03:58
2 A. To the best of my recollection, I did. 07:04:01
3 Q. When did you notify Ms. Kelly that Applera 07:04:04
4 could not meet her accommodations? 07:04:08
5 A. It would have been 1-30. That is the 07:04:14
6 reason it was dated that date. 1-30-06. 07:04:18
7 Q. Do you have a practice of as soon as you 07:04:28
8 take an action, documenting it? Is that why you 07:04:29
9 know it was the same day? 07:04:34
10 A. Even if I do it a different day, if I 07:04:35
11 enter it in a different day, I will try to put the 07:04:37
12 date on whatever it happened, whatever the action 07:04:40
13 was taken, it's that date that I'll type on here. 07:04:46
14 Q. I see. So even if you didn't get around 07:04:50
15 to entering it into the system until the next day, 07:04:53
16 you would have put the previously if that's the 07:04:56
17 day you called her? 07:04:58
18 A. Yes, that is correct. 07:04:59
19 Q. So do you have a specific recollection of 07:05:00
20 telephoning Ms. Kelly and telling her the company 07:05:02
21 could not meet the necessary accommodations? 07:05:06
22 A. I have a specific recollection of having 07:05:09
23 the telephone call conversation with her, yes. 07:05:14
24 Q. And what did you tell her in that call? 07:05:19
25 A. That based upon her restrictions and our 07:05:22

230

1 concern for both her safety and the employees, 07:05:27
 2 other employees at the work site safety, we would 07:05:32
 3 not be able to meet her restrictions, however, she 07:05:36
 4 could remain out on leave, and that is the 07:05:39
 5 accommodation we would be able to make. 07:05:42

6 Q. You have a specific recollection of 07:05:57
 7 telling -- of mentioning safety to her in this 07:05:58
 8 call? 07:06:01

9 MR. PAETKAU: Objection. Asked and 07:06:02
 10 answered. 07:06:13

11 THE WITNESS: I have a specific 07:06:13
 12 recollection of having the call and the 07:06:14
 13 specific -- and remembering the specific points, 07:06:26
 14 no. 07:06:30

15 BY MS. McFADDEN: 07:06:30

16 Q. So as you sit here today, you don't know 07:06:32
 17 for sure whether or not you ever even used the 07:06:33
 18 word safety; is that fair to say? 07:06:36

19 A. That's fair to say. 07:06:39

20 Q. All right. And do you have a specific 07:06:41
 21 recollection of telling her in the call that she 07:06:44
 22 could stay out on leave, and that's the 07:06:49
 23 accommodation the company was granting her? Do 07:06:51
 24 you specifically remember telling her that? 07:06:53

25 A. I specifically remember having the call. 07:06:56

1 I don't specifically remember any of the items 07:07:01
2 which I would have -- information which I would 07:07:07
3 have conveyed to her other than the fact that we 07:07:10
4 could not meet the requested accommodation. 07:07:13

5 Q. Okay. 07:07:19

6 MR. PAETKAU: Were you finished with your 07:07:20
7 answer? 07:07:22

8 THE WITNESS: Yes. 07:07:23

9 BY MS. McFADDEN: 07:07:23

10 Q. How long was this telephone call with 07:07:24
11 Ms. Kelly? 07:07:25

12 A. I believe it would have been relatively 07:07:26
13 short. It may have been five minutes. It could 07:07:28
14 have been ten minutes. It would not have been a 07:07:34
15 lengthy conversation. 07:07:36

16 Q. Did you tell her it wasn't worth it for 07:07:39
17 the company to bring her back? 07:07:41

18 A. Would you please ask the -- what was the 07:07:44
19 statement, please. 07:07:46

20 Q. Did you tell Ms. Kelly that it wasn't 07:07:47
21 worth it for Applera to bring her back for 12 07:07:51
22 hours? 07:07:55

23 A. I never made that statement. 07:07:55

24 Q. Did you say anything similar to that? 07:07:57

25 A. To my recollection, no. 07:07:59

1 Q. Have you told me everything at all that 07:08:02
 2 you recall about what was said in the conversation 07:08:03
 3 with Ms. Kelly by you? 07:08:05

4 A. To the best of my recollection, yes. 07:08:19

5 Q. And what did Ms. Kelly say in the 07:08:21
 6 telephone call? 07:08:23

7 A. I have no specific memory of what she did 07:08:27
 8 say. 07:08:31

9 Q. Between the time of your second telephone 07:08:36
 10 call with Jonathan Laosiri where he told you he 07:08:38
 11 could not accommodate those restrictions and the 07:08:41
 12 time that you made the phone call to Ms. Kelly, 07:08:43
 13 how much time was there between those two events? 07:08:47

14 A. It would have been relatively short. 07:08:57
 15 Maybe a day or two, if even that. I don't 07:09:00
 16 specifically remember, but given the fact that I 07:09:07
 17 said I did this on the 30th and it would have been 07:09:15
 18 a week or a little more when we first knew, it had 07:09:23
 19 to be within a day or two of the conversation. It 07:09:31
 20 could have been actually been the same day. 07:09:36

21 Q. In between the time that you had the 07:09:39
 22 second telephone conversation with Jonathan 07:09:44
 23 Laosiri and the time that you telephoned 07:09:46
 24 Ms. Kelly, did you do anything at all with respect 07:09:48
 25 to reconsidering whether there was anything the 07:09:51